

AMENDED IN SENATE JANUARY 5, 2004

SENATE BILL

No. 391

Introduced by Senator Escutia

February 20, 2003

~~An act to add Section 37200.5 to the Government Code, relating to cities. An act to amend Section 12654 of the Government Code, relating to state actions.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 391, as amended, Escutia. ~~Cities: financial powers False claims actions.~~

Existing law authorizes the Attorney General to bring a civil action for false claims made against a state or political subdivision if any portion of the money, property, or services issued from or was provided by the state, subject to specified requirements. Existing law prohibits such a civil action from being filed more than 3 years after discovery by the public official charged with responsibility to act in the circumstances or no more than 10 years after the date of the violation.

This bill would specify that such a civil action may allege Doe defendants that remain unnamed more than 3 years after the date of discovery if they are named within 10 years of the date the violation was committed.

~~Existing law grants various financial powers to the legislative body and officers of a city.~~

~~This bill would require that the legislative body and officers of a legislative body and officers of a city shall manage the finances of a city in a manner consistent with the prudent investor rule applicable to trustees of trust assets, and shall comply with all applicable laws relating to the management of public funds.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 37200.5 is added to the Government~~
2 ~~Code, to read:~~

3 ~~37200.5. The legislative body and officers of the city shall~~
4 ~~manage the finances of the city in a manner consistent with the~~
5 ~~prudent investor rule applicable to trustees of trust assets, and shall~~
6 ~~comply with all applicable laws relating to the management of~~
7 ~~public funds.~~

8 ~~SECTION 1. Section 12654 of the Government Code is~~
9 ~~amended to read:~~

10 12654. (a) (1) A civil action under Section 12652 may not be
11 filed more than three years after the date of discovery by the
12 official of the state or political subdivision charged with
13 responsibility to act in the circumstances or, in any event, no more
14 than 10 years after the date on which the violation of Section 12651
15 is committed.

16 (2) A civil action filed under paragraph (1) may allege “Doe”
17 defendants that remain unnamed more than three years after the
18 date of discovery of the violation, if the defendants are named
19 within 10 years of the date on which the violation of Section 12651
20 is committed.

21 (b) A civil action under Section 12652 may be brought for
22 activity prior to January 1, 1988, if the limitations period set in
23 subdivision (a) has not lapsed.

24 (c) In any action brought under Section 12652, the state, the
25 political subdivision, or the qui tam plaintiff shall be required to
26 prove all essential elements of the cause of action, including
27 damages, by a preponderance of the evidence.

28 (d) Notwithstanding any other provision of law, a guilty verdict
29 rendered in a criminal proceeding charging false statements or
30 fraud, whether upon a verdict after trial or upon a plea of guilty or
31 nolo contendere, except for a plea of nolo contendere made prior
32 to January 1, 1988, shall estop the defendant from denying the
33 essential elements of the offense in any action which involves the
34 same transaction as in the criminal proceeding and which is
35 brought under subdivision (a), (b), or (c) of Section 12652.

1 (e) Subdivision (b) of Section 47 of the Civil Code shall not be
2 applicable to any claim subject to this article.

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